

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-077

June 10, 1998

CENTRAL MAINE POWER COMPANY  
Application for Approval of  
Reorganizations, Affiliated  
Interest Transactions and Sale  
in Connection with Gas Ventures

ORDER APPROVING  
STIPULATION

WELCH, Chairman; NUGENT, Commissioner

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## **I. SUMMARY**

In this Order we approve a stipulation (Attachment 1 to this Order) that provides a methodology for CMP Natural Gas, LLC (CMP Gas) to make royalty payments to Central Maine Power Company (CMP) for the use of the CMP name.

## **II. BACKGROUND**

On May 1, 1998, the Commission approved, in this docket, CMP's application to establish an affiliate to engage in the local distribution of natural gas within the State of Maine. Subsequent to the issuance of that Order, the gas affiliate decided to use the Central Maine Power name as part of its name. Chapter 820 of the Commission Rules will require the payment of a royalty for the good will associated with the use of the name. Chapter 820 §§ 2(F); 4(C).

On May 7, 1998, CMP filed a stipulation agreed to by CMP and the Public Advocate that allows CMP to convey its corporate name and goodwill for a one time payment of \$500,000, to be made upon the earlier of: (i) six years from the date the affiliate is formally created, or (ii) 120 days after the conclusion of the first calendar year in which the affiliate earns its authorized return on equity. The stipulation also provides an alternative payment method in the event CMP Gas's return on equity does not exceed \$5 million in any of its first five years. CMP represented that the stipulation would not be opposed by Northern Utilities or the Independent Energy Producers of Maine (IEPM) and that the Coalition for Sensible Energy took no position. CMP did not know the position of other parties.

On May 20, 1998, the Hearing Examiner afforded all parties an opportunity to comment on the stipulation. In particular, parties were asked to provide additional information on whether the stipulation met the requirements of Chapter 820 § 4(C) and the standards the Commission applies when considering a stipulation: whether the parties joining the stipulation represent a sufficiently broad spectrum of interests; whether the process leading up to the stipulation was fair; and whether the stipulated result is

reasonable, not contrary to legislative mandate and is in the public interest.

On May 27, 1998, OPA and CMP filed additional comments in support of the stipulation. The IEPM also filed comments. No other party filed comments or objected to the stipulation.

### III. DISCUSSION

After reviewing the stipulation and comments, we find that the stipulation provides a reasonable method for CMP Gas (a regulated utility) to pay CMP for use of the CMP name. Although the proposed methodology deviates from the presumption contained in Chapter 820 § 4(c), we believe the stipulation is consistent with the rule's general requirements governing payment of royalties. The primary effect of the stipulation is to shift the payment of the royalty to a later period in time, presumably after the gas utility begins to earn greater profits. The Public Advocate's support, and no other parties opposition, is an additional indicator that the agreement is in the public interest.

IEPM raised a concern in its comments that the mechanism for valuing good will for CMP Gas may not be appropriate in other situations. As always when approving a stipulation, our approval has no precedential value, particularly in this case, with regard to any future application of Chapter 820's royalty payment requirements.

### IV. CONCLUSION

Accordingly, we approve the stipulation filed by CMP and the Public Advocate on May 7, 1998, as the parties joining represent a sufficient spectrum of interests; it resulted from a fair process; and it is consistent with legislative mandates and the public interest. To the extent any part of our May 1, 1998 Order dealing with the use of the CMP name is inconsistent with the stipulation, this Order approving the stipulation amends the May 1 Order.

Dated at Augusta, Maine, this 10th day of June, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.